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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/055,083	01/25/2002	Terry Chou	12675 B	8107

7590
Charles E. Baxley
59 John Street
New York, NY 10038

07/30/2003

EXAMINER

WELCH, GARY L

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 07/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,083

Applicant(s)

CHOU, TERRY

Examiner

Gary L. Welch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-13 and 15-18 is/are rejected.
- 7) ☒ Claim(s) 5 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: It appears that the following changes are required:

Page 1, line 7: Change "10" to --11--

Page 8, line 6: Change "223,224" to --223--

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 6-10 and 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baharad et al. (U.S. 5,802,622).

Baharad et al. discloses a lens/frame assembly for a pair of goggles. The frame 6 is made from a rigid material with slight flexibility and having a lens-holding compartment (not numbered) with a bridge portion 4 in a middle thereof. A unitary lens (30, 60) is received in the lens-holding compartment of the frame 6. A connecting block 16 is securely received in the bridge portion 4 of the lens-holding compartment and securely mounted to the frame 6 to securely retain the lenses 30 in place.

However, the goggles of Baharad et al. is not specifically used for swimming purposes and Baharad et al. does not disclose two lenses (i.e., a separate left side lens and a separate right side lens).

Firstly, there is no structure claimed that differentiates the goggles of Baharad et al. from swimming goggles. The goggles of Baharad et al. inherently have the capability of being used by a wearer when swimming. Therefore, the goggles of Baharad et al. are considered swimming goggles.

Secondly, while Baharad et al. discloses a unitary lens 30, it is well founded in the eyewear art to substitute a left side lens and a right side lens in lieu of a unitary lens since they are functional equivalents. Therefore, it would have been obvious to one of ordinary skill in the eyewear art at the time the invention was made to replace the unitary lens of Baharad et al with two lenses since it is well founded that unitary lens and two separate lenses are functional equivalents.

With regard to claims 6 and 15, a connecting plate 10 is securely attached between the lenses 30. The connecting plate 10 has two first engaging holes (Figure 1). The bridge portion 4 of the frame 6 also has two engaging pieces 29 formed on an upper wall and a lower wall of the bridge portion 4. Each engaging piece 29 includes a second engaging hole (Figure 1). The connecting block is two pegs 16 that extend through one of the second engaging holes and then in an associated one of the first engaging holes (Figure 1).

With regard to claims 7, 8, 9, 16, 17 and 18, the invention is disclosed in the above rejections.

With regard to claim 10, the invention is disclosed substantially in the above rejections. Furthermore, the goggles of Baharad et al. have a padding member 20 engaged with the lens 30 and a head strap 42 attached to two sides of the frame 6. The frame 6 is inherently pullable since it is flexible which would allow for insertion of the lenses 30 into the lens-holding compartment.

4. Claims 2-4 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baharad et al. (U.S. 5,802,622) in view of Lin (U.S. 4,951,322).

Baharad et al. discloses the invention substantially as claimed above. However, Baharad et al. does not disclose that pegs each have a snapping head with a diameter slightly greater than an inner diameter of an associated engaging hole so that when the snapping head is compressed inward, the snapping head restores its shape.

Lin teaches eyewear having a peg 62 for connecting a nosepiece 55 and lens 54 to a frame 53. The peg 62 is inserted into an engaging hole 72 in the lens 54 and into a second engaging hole 82 in the bridge section of the frame 53. The peg 62 is split shaped (Figure 5) and is made from a flexible and resilient material. When the peg 62 is inserted into the engaging holes (72, 82), the peg compresses (Figure 6) to fit the diameter of the holes (72, 82) thereby ensuring a secure and tight fit thereby preventing the nosepiece 55 and lens 54 from disengaging from the frame 53. The peg restores to its original shape when disconnected since it is made from a flexible and resilient material. The pegs of both Baharad et al. and Lin are functional equivalents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the pegs 16 of Baharad et al. with the pegs as taught by Lin since they are equivalent in function (i.e., securing a lens to a bridge section of an eyewear frame).

With regard to claim 3, a connecting plate 10 is securely attached to the lens 30.

With regard to claims 4, 11, 12 and 13, the rejections are disclosed in the above rejections.

Allowable Subject Matter

5. Claims 5 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bolle '763, Schleger et al. '422, Hall et al. '795, Porsche '716 and Schmidthaler '622 disclose eyewear having lenses attached to a frame at the bridge section via a connecting block arrangement.

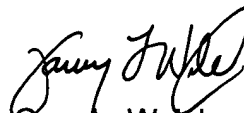
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary L. Welch whose telephone number is (703) 305-0451. The examiner can normally be reached on Mon-Fri 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on (703) 305-1025. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9302 for regular communications and (703) 872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.



Gary L. Welch
Primary Examiner
Art Unit 3765

glw
July 24, 2003